

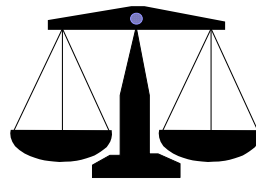
# CITY OF CINCINNATI

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## Sixth Status Report to the Independent Monitor

November 12, 2003



### Cincinnati Police Department

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Police Relations Section



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## I. INTRODUCTION

In April 2001, the Mayor of Cincinnati, and other interested persons within the City, requested the United States Department of Justice (DOJ) to conduct a review of the Cincinnati Police Department's (CPD) policies and procedures, specifically those that related to the uses of force. This request indicated the City's commitment to minimizing the risk of excessive use of force in the CPD and to promoting police integrity. In response to these requests, the DOJ launched an investigation pursuant to authority granted under 42 U.S.C. 14141, the Violent Crime Control and Law Enforcement Act of 1994.

The DOJ's investigation, conducted with the full cooperation of the City, included extensive interviews with City and CPD officials, CPD officers, leaders of the Fraternal Order of Police (FOP) and the African-American police officers' association (Sentinels), community members and civil rights organization representatives.

At the close of the investigation, which lasted approximately one year, the DOJ determined that the jurisdictional requirements of 42 U.S.C. 14141 were sufficiently satisfied to permit the parties to enter into this **Memorandum of Agreement (MOA)**. As a result of the City's and the CPD's high level of voluntary cooperation and willingness to implement meaningful change, the DOJ believed this MOA, rather than contested litigation, represented the best opportunity to address the DOJ's concerns. On April 11, 2002, history was made in the City of Cincinnati. The City of Cincinnati and the United States Department of Justice entered into this landmark agreement.<sup>1</sup>

At the same time, representatives for the City, the Cincinnati Black United Front (CBUF), the American Civil Liberties Union of Ohio (ACLU), and the Fraternal Order of Police (FOP) executed the **Collaborative Agreement (CA)**. Brought about in part by a series of legal actions citing patterns of discrimination by police, this latter agreement also served as an alternative to court litigation. Under this agreement the Federal District Court introduced a process where various stakeholders in the community could examine the broader social conflicts in the city by gathering the views of as many citizens as possible on improving the relationship between police officers and the community. Through the distribution of questionnaires and a series of public meetings involving different segments of the community, the following goals became the cornerstones of the Collaborative Agreement:

1. Police officers and community members will become proactive partners in community problem solving.

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<sup>1</sup> Neither the City's entry into this Agreement, nor its decision to implement changes in CPD policies and procedures is an admission by the City, the CPD, or any officer or employee of either, that any of them have engaged in any unconstitutional, illegal, or otherwise improper activities or conduct.

2. Police officers and community members will build relationships of respect, cooperation, and trust within and between the police and the citizens.
3. Police officers and community members will work to improve education, oversight, monitoring, hiring practices, and accountability of the Cincinnati Police Department.
4. Police officers and community members will ensure fair, equitable, and courteous treatment for all by members of the police department.
5. Police officers and community members will create methods to establish the public's understanding of police policies and procedures and to recognize exceptional service provided by members of the police department.

Implementation of both agreements will not only reform police practice, but will enhance trust, communication, and cooperation between the police and the community. The settlements have fostered a union that has motivated all segments of the community to come together and focus on building the positive and productive relations necessary to maintain a vibrant city core and surrounding metropolitan area. The City of Cincinnati is enthusiastic and committed to this endeavor and has already begun initiatives to involve virtually all City departments in the process.

The two agreements will be overseen by an Independent Monitor. Consistent with the consensus decision-making process incorporated in the collaborative process, all collaborative partners unanimously selected the independent monitor.

The Monitor issued the Independent Monitor's Third Report ("Monitor's Second Report") on October 1, 2003. The Report noted some areas in which the CPD had fully complied with the MOA, and noted other areas in which improvements were still required.

This Report is intended to advise the Monitor as to the continuing progress that the CPD has made since the Monitor's Third Report was issued.

## II. GENERAL POLICIES

### A. Mental Health Response Team

The MOA's requirements with regard to the MHRT are located at paragraph 10.

#### Monitor's Previous Assessment

The Police Department continues to make improvements to its MHRT program, and based on our information to date is in compliance with these provisions of the MOA. Continued compliance will depend on the availability and deployment of MHRT officers to incidents involving mentally ill individuals,

#### Status Update

##### ➤ *Training*

CPD conducted an additional forty-hour MHRT training session, which began on July 7, 2003 and concluded on July 11, 2003. An additional 21 officers attended this session and received the MHRT certification. The MHRT Employee Course Attendance Report prepared by the Training Section for this training is included in Appendix Item 1.

##### ➤ *MHRT Availability*

On May 1, 2003, CPD began to track the number of MHRT officers deployed on a daily basis. The tracking process allows CPD to take a look at MHRT staffing levels by shift, district, and department-wide. According to the July, August, and September staffing reports, CPD was able to provide consistent MHRT service. The MHRT staffing reports are included in Appendix Item 2.

##### ➤ *MHRT Officer Dispatch Summary*

Effective May 1, 2003, Police Communications Section began to record the dispatch disposition of MHRT officers to all calls involving suspected mentally ill individuals. When dispatching these calls, the dispatcher will make an entry into a designated field for all MHRT calls, indicating one of the following dispositions:

**MHD** – A MHRT unit was dispatched to the call

**MHNA** – A MHRT unit was not dispatched because all MHRT units citywide were busy.

**MHNW** – There were no MHRT units working in the city.

During this reporting period, CPD responded to 1433 such calls for service. In 1115 of those instances, MHRT officers were dispatched to handle the situation. In the months of July, August, and September there were only 23 instances where an MHRT officer was not available for dispatch and no instances in which a MHRT officer was not working. A monthly analysis of these calls is included in Appendix Item 3.

MOA paragraph 10 requires CPD to establish a cadre of MHRT officers available at all times to respond to incidents involving persons who are mentally ill. CPD believes that the Monitor's assessment suggests that CPD has been able to maintain the required coverage.

## **B. Foot Pursuit**

The provisions of the MOA related to foot pursuit are located in paragraph 11.

### Monitor's Previous Assessment

- CPD's foot pursuit policy is in compliance with the MOA.
- Review of investigations in which there was a foot pursuit indicated that supervisors in some cases have evaluated the tactical soundness of the foot pursuit, while in others, there appeared to be no review.

### Status Update

The supervisory review of foot pursuits was not incorporated into CPD policy until the August 19, 2003 revision of Procedure 12.536, Foot Pursuits. Consequently, the second quarter incident reports reviewed by the Monitor were not guided by this revision. In addition to merely creating a foot pursuit policy which complies with MOA paragraph 11, CPD, at the request of the Monitor, agreed to adopt the supervisory review process. In response to that request, CPD has taken the following measures:

- Procedure 12.536, Foot Pursuits, was revised to incorporate language that directs supervisors to include an analysis of the tactical soundness of foot pursuits in the appropriate incident report. The revised procedure was included in the Staff Notes dated August 19, 2003. The Staff Notes and the revised policy have been included in Appendix Item 4.
- The Department reinforced the review process in the MOA Policy and Procedure Changes-Training Summary published on August 11, 2003. The Training Summary was distributed to all CPD personnel.
- As part of the Management Training for supervisors held in the fall of 2003, the Training Section is planning to include a curriculum that will also highlight these processes.

### **Appendix Information (Document Description – Exhibit Number)**

• MHRT Training Roster	1
• MHRT Deployment Summary	2
• MHRT Dispatch Summary	3
• Staff Notes dated August 19, 2003	4

### **III. USE OF FORCE POLICY**

#### **A. General Use of Force Policies**

The MOA's requirements pertaining to use of force are located in paragraphs 12 and 13.

##### Monitor's Previous Assessment

The Monitor concluded CPD's current Use of Force policy submitted on July 29, 2003 includes all the changes agreed upon by CPD and the Department of Justice. Further, the policy is in compliance with the MOA.

##### Status Update

Use of Force statistics for the current reporting period have been included in Appendix Item 5.

#### **B. Chemical Spray**

MOA provisions pertaining to chemical spray are found at paragraphs 14, 15 and 16.

##### Monitor's Previous Assessment

- CPD's chemical spray policy meets the requirements of the MOA
- Upon review of select chemical spray incident reports, the Monitor indicated that it was unclear in some cases as to whether a verbal warning was issued prior to chemical irritant deployment.
- An issue was also raised as to the appropriateness of utilizing chemical irritant on restrained individuals who spit on officers. Moreover, the Monitor suggests that even if the deployment were justified, the MOA requires the verbal warning prior to its use.

##### Status Update

In addition to the modifications made to force procedures regarding the use of chemical spray, CPD has taken a number of additional steps at the request of the Monitor:

- A study was conducted to evaluate the effects of various chemical spray compounds. The study focused on the latest research and the product lines currently available for law enforcement use. The results of this study reaffirmed the findings of a similar report released by CPD in January of 2002, which concluded that CPD should continue its current issue of chemical spray.



- Another study was conducted to examine the use of chemical spray on individuals in custody and attempting to ingest contraband. The study examined this particular use of chemical spray from legal, medical, and tactical perspectives. The following were consulted and contributed to the study:
  - ❑ Doctor Robert R. Pfalzgraf, Director of Forensic Pathology, Hamilton County Coroner's Office
  - ❑ Ms. Jennifer Langen, Attorney, City of Cincinnati Law Department
  - ❑ Captain James L. Whalen, District One Commander
  - ❑ Sergeant Thomas J. Tanner, Training Supervisor, Cincinnati Police Department Training Section
  - ❑ Police Specialist William Brunner, Physical Fitness and Defensive Tactics Instructor, Cincinnati Police Department Training Section

From all the perspectives outlined above, the study supports the current CPD policy, which directs officers to utilize chemical spray to prevent the ingestion of narcotics or any other contraband.

The research also included contacting other metropolitan police agencies to determine their position or obtain their policies relative to this tactic. With the exception of Pittsburgh Police Department, which advocates a physical extraction technique, no agency had a policy, procedure, or standard operating procedure in place to prevent the swallowing of evidence or contraband. By providing its officers clear direction on the issue, CPD may be advanced in this area of police policy. This report is included in Appendix Item 11.

- In conjunction with the implementation of the revised Use of Force policy on June 1, 2003, CPD revised the Form 18CI, Use of Chemical Irritant Report. The revised report is designed to capture specific information sought by the MOA and the Monitor. Information pertaining to the verbal warning prior to deployment was included in the revision process. Additionally, CPD released a training summary to all personnel highlighting the MOA policy and procedure changes in addition to the incident reporting requirements. This information will be reinforced in the upcoming Management Training for supervisors, which is scheduled to begin in November 2003.

As noted in his report, the Monitor's assessment in this area was based on the review of reports that did not yet contain the above revisions. Although the issuance of the required verbal warning may not have been easily discernable from some of these reports, CPD does not believe this a clear indication that this MOA requirement was not met. It simply suggests that more documentation and/or information would have facilitated the Monitor in making his determination regarding the issuance of a warning. CPD therefore believes that DOJ, in their October 3, 2003 correspondence to the City, made this assumption when using this portion of the Monitor's assessment to critically address CPD compliance in this area.

- CPD strongly maintains that the use of chemical irritant may under certain circumstances be an appropriate response to individuals who spit at officers while in custody. The Monitor's point about verbal warnings is well taken. CPD believes that such warnings are being given, and will take measures internally to ensure these warnings are properly documented.
- Chemical irritant deployment has been summarized in Appendix Items 6, 7, 8, 9, and 10.

### **C. Canines**

The MOA provisions relating to canine policy are located in paragraph 20.

#### Monitor's Previous Assessment

During the previous reporting period, the Monitor noted that the Monitoring Team was unable to assess compliance in this area because many of the incidents reported have not yet undergone the command level review processes.

#### Status Update

Although the Command and Inspections Section review have not been conducted for the incomplete cases cited above by the Monitor, the preliminary Canine Bite Reports, Form 18C, were sent to the Monitoring Team and DOJ for review on October 20, 2003. Upon completion of all the review processes, the entire investigative file will again be forwarded to the Monitor and DOJ.

During this reporting period, canines were deployed in connection with 169 incidents. As a result, 20 individuals were located with 2 of those persons being bitten by the dog. This equates to a 10% unit bite ratio. The statistics generated by the Canine Deployment Database have been included in Appendix Items 12 and 13.

The canine bite ratio reports generated pursuant to MOA paragraph 20 are included in Appendix Items 14, 15, and 16. These reports examine the following six-month periods:

January 1, 2003 – June 30, 2003  
February 1, 2003 – July 31, 2003  
March 1, 2003 – August 31, 2003

#### **D. Beanbag Shotguns / 40mm Foam Rounds**

The MOA provisions relating to beanbag shotguns and 40mm foam rounds are located in paragraphs 21, 22 and 23.

##### Monitor's Previous Assessment

The Monitor, in his report, indicated that there were no changes to the beanbag shotgun policy, which meets the MOA requirements.

##### Status Update

During this reporting period, there were no beanbag shotgun or forty millimeter foam round deployments. The Pepperball Launcher, however, was used four times during this period. Pepperball Launcher deployment has been summarized in Table 24-1, which is included as Appendix Item 17.

#### **Appendix Information (Document Description – Exhibit Number)**

• Table 14-1 – Chemical Irritant Summary – Group Deployments	6
• Table 14-2 – Chemical Irritant Summary – Verbal Commands	7
• Table 14-3 – Chemical Irritant Summary – Decontamination	8
• Table 14-4 – Chemical Irritant Summary – Restrained Individuals	9
• Table 18-1 – Chemical Irritant Distribution	10
• Chemical Spray Evaluation Report	11
• Table 20-1 – Canine Deployment Summary	12
• Table 20-2 – Canine Bite Summary	13
• Canine Bite Ratio Report – (1/1/03 to 6/30/03)	14
• Canine Bite Ratio Report – (2/1/03 to 7/31/03)	15
• Canine Bite Ratio Report – (3/1/03 to 8/31/03)	16
• Table 24-1 Special Weapon Deployment Summary	17

## **IV. INCIDENT DOCUMENTATION, INVESTIGATION & REVIEW**

### **A. Documentation**

The MOA provisions relating to documentation are located in paragraph 24.

#### Monitor's Previous Assessment

In his most recent report, the Monitor determined that CPD was in compliance with the reporting provisions of the MOA.

#### Status Update

CPD continues to provide the Monitoring Team samples of the various force incident reports for their review.

### **B. Investigation**

The MOA provisions relating to investigation are located in paragraphs 26, 27, 28, 29, 30 and 31.

#### Monitor's Previous Assessment

In his report, the Monitor included the following observations:

- CPD's policies on investigating use of force incidents comply with the MOA.
- The supervisory investigations are for the most part, complete, and the reviews of the investigation by the chain of command are raising the appropriate issues.
- In contrast to prior quarters, there were no incidents reviewed where the investigating supervisor was the same as the supervisor authorizing the use of force or a participant in the incident.
- In chemical spray incidents, it remains unclear in some instances whether a warning of the impending force is given prior to force being applied.
- The number of incidents where force was used while an officer was working an off duty detail, for example as security in a grocery store. Further, the Monitor suggested that CPD track those incidents.

#### Status Update

- In regard to the verbal warning required prior to the deployment of chemical irritant, this issue has been previously addressed in the chemical irritant section of this report.

- Although applicable labor law governs the maximum number of hours an employee can work, the Inspections Section monitors those hours for all officers engaged in extension of police service capacities. Officers who violate the thresholds set by CPD are subject to review, and where appropriate, corrective or disciplinary action. Secondly, CPD supervisors routinely inspect details to ensure these officers are fit for duty, properly equipped, and attending to the appropriate duties.
- Regardless of the number of hours an officer may work, the nature of these details must be considered before drawing any conclusions about officer judgement and the need to use force. Typically these details involve loss prevention, where the officer is required to proactively act to terminate a crime in progress as opposed to the beat officer engaged in a large percentage of reactive type duties. Generally suspects “caught in the act” tend to react by “fight or flight” when approached by the detail officers. The same behavior is displayed by those suspects apprehended while engaging in the buying and selling of narcotics, which are also typically arrest situations that generate a considerable number of force incidents. On October 16, 2003, CPD Inspections Section performed a query on force reports year to date to examine how many incidents occurred while officers were working in an extension of police service capacity. The study yielded the following results:

	<b>Off Duty</b>	<b>Total Incidents</b>	<b>Percentage</b>
Chemical Irritant	28	307	9%
Injury to Prisoners	23	313	7%
Use of Force	28	219	13%
Total Incidents	79	839	9%

### **C. Review of Critical Firearms Discharges**

The relevant provisions of the MOA are located at paragraphs 32, 33 and 34.

#### Monitor’s Previous Assessment

The Firearm Discharge Board reports are in compliance with the MOA requirements regarding firearms discharge investigations and FDB reports.

#### Status Update

During this reporting period, CPD has not had any incidents involving a critical firearm discharge. The previous incidents have since been investigated by the Firearms Discharge Board and the hearing summaries have been forwarded to the Monitoring Team for review.

**Appendix Information (Document Description – Exhibit Number)**

## **V. CITIZEN COMPLAINT PROCESS**

### **A. Openness of the Complaint Process**

Paragraphs 35 and 36 of the MOA deal with the openness of the complaint process.

#### Monitor's Previous Assessment

- CPD is in compliance with these provisions of the MOA. As required by the MOA, CPD accepts complaints in any format – including in person, by mail, from the CCA or stemming from a supervisor's investigation of a use of force incident.
- Although CPD Procedure 15.100, Citizen Complaints, still directs the District Commander to make the final determination regarding the assignment of complaints, in practice, the Administrative Bureau and the Internal Investigation Commanders review these assignments and can overrule these actions if warranted.
- During the Monitoring Team review process, there were no instances assigned to CCRP in which the complaints involved serious misconduct, unnecessary pointing of firearms or excessive uses of force. There were some cases involving allegations of discrimination that were assigned to CCRP, which under the MOA, should have been addressed by IIS.
- A second issue regarding CCRP investigations is whether such complaints are being directed to the CCA in a timely manner, as required under both the MOA and CA.

#### Status Update

- In regard to the discrimination complaints referred to by the Monitor as being improperly assigned and resolved through the CCRP process, CPD would like to point out that IIS has the responsibility of reviewing CCRP closure recommendations once the chain of command reviews are completed. Although race was an issue suggested by the complainants in the two cases cited, the allegations primarily involved the complainant's dissatisfaction over a citation in one case and in the other instance, dissatisfaction about the officer's activities while working off duty security for a retail establishment.

- IIS and CCA continue to have regular meetings to address a number of issues. The routing of complaints is one of the items that has been addressed. To expedite the routing of complaints to the CCA, a change has been made to the mailing protocol. CCA has now been added to the police interdepartmental mail routing system to ensure the timely transfer of information. Additionally, CCA has now been provided access to the IIS complaint database. With the exception of those complaints that are criminal in nature, CCA personnel can now review the record of all complaints received by CPD.
- CPD also generated a report for the Citizen Service Feedback Program for the third quarter of 2003. During this period, CPD officers generated 48 feedback forms noting excellent service. The Citizen Service Feedback Program quarterly summary is included as Appendix Item 18.
- To ensure citizen complaint forms and informational materials are available, CPD continues routine inspections of the police installations and vehicles and the public facilities outlined in MOA paragraph 36.

## **B. Means of Filing and Tracking Complaints**

Paragraphs 37 and 38 of the MOA deal with the tracking and filing of complaints.

### Monitor's Previous Assessment

Nothing reported

### Status Update

CPD continues to provide the Monitoring Team with samples of complaints for their review.

## **C. Investigation of Complaints**

Paragraphs 39, 40, 41, 42, 43, 44 and 45 of the MOA deal with the investigation of complaints.

### Monitor's Previous Assessment

- CPD has now revised the routing and review of complaints stemming from supervisors' use of force investigations. In addition to the investigating supervisor immediately sending a fax copy of the initial complaint to IIS, a substantive review is completed by IIS after it has reached the Patrol Bureau Commander.



- After review of complaints from the previous quarter, the Monitor finds CPD to be only in partial compliance with these provisions. According to his report, the Monitor found both thorough investigations that met the MOA provisions and some investigations involving leading questions and lacking rigor.

#### Status Update

- During this reporting period, IIS has completed six use of force reviews with eight of the reviews still pending.
- With respect to the level of detail involved in some of the investigations, CPD would appreciate specific examples or direction from the Monitor.

### **D. Adjudication of Complaints**

#### Monitor's Previous Assessment

The City is in compliance with the MOA provisions relating to adjudication of investigations.

#### Status Update

Procedure 15.100, Citizen Complaints, was revised to include the CCRP closure recommendation process conducted by the appropriate Bureau Commander. During the third quarter of 2003, 59 allegations were investigated and closed through CCRP with the following dispositions:

Sustained	14
Sustained Other	2
Exonerated	9
Not Sustained	13
Unfounded	20
No Complaint/Court Issue	1

A total of 54 allegations were closed as a result of those investigations assigned to IIS. Those cases were closed as follows:

Sustained	26
Sustained Other	1
Exonerated	3
Not Sustained	8
Unfounded	16

## **E. CCA**

### Monitor's Previous Assessment

The Monitor indicated a desire to evaluate the following areas pertaining to the CCA:

- IIS reviews to CCA
- The promptness of CCRP complaints being forwarded to CCA
- Review of a sample number of CCA complaints to assess quality and compliance with MOA provisions.

### Status Update

No CPD update for this period.

### **Appendix Information (Document Description – Exhibit Number)**

- Citizen Service Feedback Program – 3rd Quarter 2003 18

## **VI. MANAGEMENT AND SUPERVISION**

### **A. Risk Management and Supervision**

Paragraphs 57-66 of the MOA are relevant to risk management and supervision.

#### Monitor's Previous Assessment

In his status report, the Monitor found CPD to be in compliance with the initial MOA requirements in issuing the RFP and vendor selection for the proposed Employee Tracking Solution (ETS). The Monitor further indicated the CPD is continuing to use the Department Risk Management System (DRMS) to monitor officer activity.

#### Status Update

As noted by the Monitor, CPD submitted a draft version of the ETS Protocol to the Monitoring Team for review and input. CPD continues to work with the contractor and the Monitoring Team to enhance the protocol and also develop the Data Input Plan for the new system.

Currently Megg Associates is in the process of designing all the various modules to be used within the Employee Tracking Solution, (ETS). On October 21, 2003 Megg delivered most of the modules to the Police Department for review. CPD continues to review the items and is in the process of submitting any additional requests or modifications.

Megg Associates conducted an on-site visit from October 21-28, 2003. During this visit, CPD took the opportunity to discuss the analysis tools, triggers, and requirements. After receiving input from the Department of Justice and the Monitoring Team regarding the system's protocol, this was the first opportunity to provide Megg with our draft specifications. Based on those specifications, Megg indicated that it would take approximately four to five weeks to complete the analysis tool. After the analysis component has been developed, CPD will have an opportunity to review and submit requests for any needed modifications. At this time, CPD can not anticipate the specific changes that may be necessary and therefore has not identified a definite time frame for its completion. CPD does not anticipate the review process to take any longer than four weeks. To expedite this process, Megg has requested remote access to the ETS server to place additions and changes directly on the ETS test server without having to perform the operation on site. With the assistance of RCC, a remote access solution was developed which requires MEGG to simply dial into the server. CPD is currently testing this process to ensure Megg can actually make the contact with the server.

Several weeks after CPD concludes its review of the system and all corrections have been made, training will begin. The first round of training will be a four-day session for administrators. System administrators will come from the following units: ITMS (3), Inspections (1), Internal (1), and Personnel (1).

Those chosen to be trainers will follow with four classes tentatively consisting of nine trainers in each class. The trainer classes are scheduled to be three days in duration. ITMS is in the process of selecting and recommending trainers to the Police Chief for approval. CPD's goal is to select trainers throughout the Department so each section/unit will be represented with at least one trainer.

Finally, end user training will immediately follow. End user training will utilize system administrators and trainers as instructors. To ensure maximum training of end users in the shortest period of time, CPD is going to attempt to conduct several classes per day; one during the day shift and another to accommodate personnel assigned to second and third shifts.

CPD now anticipates roll out of the system in the first quarter of 2004. Delay in implementation is attributed to Megg Associates not having sufficient information to construct the analysis component of the system. Even with the delay, CPD believes that implementation will occur consistent with the timeframes established by MOA¶64.

## **B. Audit Procedures**

Paragraphs 67-69 of the MOA deal with Audit Procedures.

### Monitor's Previous Assessment

CPD has conducted the audits required by the MOA. The Monitor will evaluate the thoroughness of these audits in the future quarters.

### Status Update

The Inspections Section completed the audit of those complaints resolved through CCRP for the third quarter of 2003. The audit reviewed a 30% random sample of CCRP case closures and focused on the following areas:

- Checking the CCRP computer database to ensure complaints were logged and the proper documentation completed.
- Ensuring each district/section/unit had complaint and feedback forms assessable to the public.
- Ensuring the placement of complaint and feedback forms in Department vehicles.
- Ensuring the complainant was notified of the CCRP outcome, including whether corrective or disciplinary action was taken.

A summary of the audit was prepared on November 1, 2003 and forwarded through the chain of command. Upon approval of the Police Chief, the summary will be forwarded to the Monitor and DOJ for review.

As noted by the Monitor, CPD has met with representatives from both the City and County Prosecutor's Offices to discuss individual and/or collective officer performance issues. All parties to the meeting agreed that meeting on a quarterly basis in the future would be sufficient to address the relevant issues. Accordingly, there will not be another meeting until the next quarter, the summary of which will be forwarded to the Monitor upon completion.

### **C. Video Cameras**

MOA Paragraphs 70-72 deal with video camera requirements.

#### Monitor's Previous Assessment

Citing inconsistent procedures among the various districts in the random review process and the fact that the entire fleet is not yet camera equipped, the Monitor finds CPD to be in partial compliance with these provisions. The report also notes that CPD needs to address the following issues associated with the implementation of the digital MVR systems:

- Court admissibility
- Continuity of evidence
- Security
- Back-end access
- Network support

#### Status Update

- Video Camera Implementation  
CPD has received funding in the amount of \$371,000 to purchase 62 DVD units with the supporting hardware and equipment. The funding is in the form of a line-item appropriation from the United States Department of Justice. In an attempt to outfit all marked CPD vehicles with digital camera equipment, additional funds have been requested pursuant to any funding associated with the MOA and Collaborative Agreements. With the purchase of 62 digital units, the Department will still need to purchase 12 cameras in order to achieve the goal of equipping a video camera (either VHS or DVD) in every marked police vehicle.

- Court admissibility  
Per Ernie McAdams, City of Cincinnati Prosecutor's Office, switching to the DVD technology poses no major legal problem. Recent court challenges have focused on the tamper resistance of the format utilized to capture the information. There are several features that make the DVD format more tamper resistant than the current VHS format. In the case of the DVD format, the officer may be required to testify as to the tamper resistance associated with the system. Specifically, the "watermark" feature (time and date stamp placed on the DVD disk when removed from the vehicle vault) as well as the write protect feature that is applied each time the disc is removed from the vault.
- Continuity of evidence  
CPD believes the continuity of video evidence is addressed in Procedure 12.537, Mobile Video Recorders. Other than supplementing the existing procedure with the DVD storage protocol, CPD does not anticipate any major modification.
- Security  
System security for both the VCR and the DVD systems will continue to be guided by Procedure 12.537, Mobile Video Recorders. Section B.2. of the procedure restricts access MVR recording media to supervisory personnel only.

As mentioned above, the DVD system employs the watermark and write-protect security features. These features prevent alteration when the disc is removed from the vehicle vault. While in the vehicle, the data is protected by a vault designed to withstand the shock, vibration, and temperature extremes of the patrol car environment, while protecting the sensitivity of recording digital video. The environmental system includes dura-blanket insulation, thermostatically controlled dual heat pumps, heat sync brackets, and two fans to ensure efficient heat transfer. A double layer of Kevlar adds an additional level of protection to the recorded evidence.

- Back-end access / Network Support  
These areas were reviewed by CPD's Information Technology Management Section. The Kustom Signal unit being purchased will be fully supported by the information technology currently in use by the Department. In addition, the Department will be purchasing 16 DVD "readers" to compliment the current IT hardware.

#### **D. Police Communications Technology**

MOA Paragraphs 73 and 74 relate to police communications technology.

##### Monitor's Previous Assessment

The Monitor noted that the City is in compliance with these provisions.

##### Status Update

###### ➤ Radio Replacement – 800 MHz Project

The City of Cincinnati has entered into a contract with Motorola to construct a digital, trunked, simulcast, narrowband 800 MHz radio communications system in full compliance with APCP Project 25 trunking requirements. The contract was signed on June 5, 2002 at a cost of \$22,700,000.00.

Motorola is still in the process of completing the infrastructure necessary to support the new system. The vendor is maintaining the construction timeline with the system projected to come on line during the third quarter of 2004. Mr. Kent Ryan, Regional Computer Center, is the Project Manager.

###### ➤ Facility Location

As indicated in its last status report, CPD has been confronted with issues involving the increased space needs of the new system. The current location of the Police Communication Center will not accommodate the 800 MHz equipment. Since the last report, the City has approved purchase of the warehouse/office site previously identified by CPD at 2100 Radcliff Drive. The location offers 18,000 square feet of office space and 21,000 square feet of warehouse space.

###### ➤ Emergency 911 Phone System Replacement

Replacement of the current 911 Phone System with a state of the art computer based system is currently underway. On March 26, 2003, the Police Department signed a contract with the selected vendor, Cincinnati Bell/Palladium. The equipment has been shipped and is currently in storage awaiting installation at the new facility.

###### ➤ The Police Department has requested the City allocate funds to upgrade the current CAD system. The City has placed the CAD replacement on the Capital Improvement Program and has allocated \$2,492,200.00 over three years beginning in 2003. Communications Section is currently researching CAD replacement technology. It is anticipated that the CAD RFP will be sent out in conjunction with the Police Department's Records Management System RFP during the first quarter of 2004.

## **E. Discipline and Promotional Policy**

MOA Paragraphs 75-76 are relevant to discipline and promotional policy.

### Monitor's Previous Assessment

To assess compliance with the MOA in this area, the Monitor has asked CPD to provide additional data for this evaluation.

### Status Update

A University of Cincinnati research team has collected much of the information requested by the Monitor to be included in a study being conducted on the City's disciplinary system. Accordingly, CPD has directed the Monitoring Team to contact Dr. Larry Travis of the University of Cincinnati for preliminary information prior to release of the study findings. Unfortunately, most of this information can only be generated by the actual review of each individual case file. Although IIS and ITMS continue to work on a method to generate this information electronically, CPD anticipates that once on line, the Employee Tracking Solution will be able to readily provide this information. In the meantime, CPD will continue to provide the Monitoring Team with access to current electronic and hardcopy files so that the desired information can be obtained.

## **Appendix Information (Document Description – Exhibit Number)**



## **VII. TRAINING**

### **A. Use of Force – Management Oversight and Curriculum**

MOA Paragraphs 77 – 87 are relevant to management oversight of training and training curriculum.

#### Monitor's Previous Assessment

CPD continues to show progress in this area and is largely in compliance with MOA paragraphs 77-81. The Monitor indicated a desire to review defensive tactics training and CPD's documentation of its evaluation of the training curriculum and practices. Additionally, the Monitor wants to examine the training in relation to officer and agency needs.

#### Status Update

In addition to the Police Recruit Training offered during this reporting quarter, the Training Section has sponsored 72 additional training courses. The courses involved 15,108 hours of training and the instruction of 1760 students. The Department Training Records for this period are included in Appendix Items 20, 21, and 22.

On June 25, 2003, the Training Committee met to review training needs and curriculum. During this session, the use of force training curriculum being taught to the recruits and during the in-service training was evaluated. The committee determined that the training meets MOA provisions. A copy of the minutes from the meeting has been included in Appendix Item 23. The next Training Committee meeting is scheduled for October 15, 2003.

Beginning November 17, 2003, the Training Section will begin another one day Management Training program for CPD supervisors. According to the tentative proposal, the following topics will be included in this training:

- Critical Incident Review
- Legal Issues Update
- Information Technology Issues
- MOA Policy and Incident Management
- Firearms Simunitions Familiarization
- Tactical Skills

## **B. Handling Citizen Complaints**

MOA Paragraph 82 is relevant to citizen complaint training.

### Monitor's Previous Assessment

In his last report, the Monitor did not include observations relative to this provision.

### Status Update

CPD has nothing additional to report.

## **C. Leadership/Command Accountability Training**

### Monitor's Previous Assessment

In his last report, the Monitor did not include observations relative to this provision.

### Status Update

Leadership and accountability were both major themes in the four hour training block presented by the Police Chief during Management Training in 2003. The lesson plan/summary on this program is available for review at the Police Academy.

## **D. Canine Training**

MOA paragraph 84 is relevant to canine training

### Monitor's Previous Assessment

Although the Monitor commended CPD for the rigor involved in the canine training program, concerns were expressed about running apprehensions and the handler's ability to maintain closer control of the dog prior to locating wanted individuals.

### Status Update

CPD continues its dedication to the canine training curriculum, which focuses on handler control of the dog. The Canine Unit's effort and superior caliber of training was reflected in the results of the United States Police Canine Association (USPCA) regional competition held in Sterling Heights, Michigan from August 7, 2003 to August 10, 2003 and again in the national competition held in Atlantic City, New Jersey from October 2, 2003 to October 10, 2003. After scoring well enough in the regional trials to proceed to the national competition, members of the CPD Canine Unit claimed first place in the Department Team category, capturing the USPCA national Tim Jones Memorial Award.

### **E. Scenario Based Training**

MOA paragraph 85 is relevant to scenario based training.

### Monitor's Previous Assessment

The Monitor indicated CPD is in substantial compliance with this provision.

### Status Update

During this quarter, the CPD presented 1,836 hours of the Roll Call Training Program. The Monthly Roll Call Training calendars and scenarios are included in Appendix Items 24, 25, and 26.

### **F. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct**

MOA paragraph 86 is relevant to training based on civil lawsuits

### Monitor's Previous Assessment

CPD is in compliance with these revisions.

### Status Update

Beginning July 17, 2003 the Training Section initiated Management Training for supervisors, which included a four-hour training block of Civil Liability Training. The training was also included in the In-Service training for police officers and police specialists beginning in September 2003. The training was presented by members of the City Law Department who have background in Section 42USC§1983 litigation in addition to extensive experience of working with law enforcement agencies. Using a combination of lecture and class participation

through role-play scenarios, the training instructed supervisors and officers in the following topics:

- Civil vs. Criminal Liability
- Civil Case Procedures
- Origins of Liability
- Supervisory Liability
- Defense Theories
- How to Avoid Liability

#### **G. Orientation to the MOA**

MOA paragraph 87 is relevant to MOA orientation training

##### Monitor's Previous Assessment

The Monitor indicated CPD is in compliance with this provision.

##### Status Update

As noted by the Monitor, CPD has published MOA driven policy changes in the Department Staff Notes and provided personnel with a training summary that outlines many of these revisions. In upcoming versions of Management and In-Service Training, these changes will again be included and reinforced.

#### **H. Field Training Officers**

MOA Paragraphs 88-89 deal with the training of field training officers.

##### Monitor's Previous Assessment

The Monitor found CPD to be only in partial compliance, citing the need for improvement in documentation and written standards relative to the selection, retention, and evaluation of Field Training Officers.

##### Status Update

In July 2003, 92 officers attended the Field Training Officer Inservice course held at the Police Academy. Additionally, the Training Section is currently planning a training session for newly selected Field Training Officers.

At the next Field Training Officer panel meeting, panel members will discuss both the criteria and process for the selection of new Field Training Officers. The Training Section staff is attempting to coordinate this meeting with the next site visit by the Monitoring Team.

## **I. Firearms Training**

MOA Paragraphs 90-91 are relevant to firearms training.

### Monitor's Previous Assessment

The Monitor made no observations regarding Firearms Training in his last report.

### Status Update

As CPD stated in the August 12, 2003 status report, the Training Section will provide for a review of the documentation associated with the re-certification process, which would also include any documentation relating to the suspension of police powers for officers failing to qualify.

### **Appendix Information (Document Description – Exhibit Number)**

• Department Training Record – July 2003	19
• Department Training Record – August 2003	20
• Department Training Record – September 2003	21
• Training Committee Minutes – June 25, 2003	22
• Roll Call Training Calendar/Scenarios – July 2003	23
• Roll Call Training Calendar/Scenarios – August 2003	24
• Roll Call Training Calendar/Scenarios – September 2003	25

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